

REMARKS

The Office Action mailed November 4, 2005 has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 1-5, 7-17 and 19-20 are now pending in this application. Claims 1-17 stand rejected. Claims 18-20 are objected to. Claims 6 and 18 have been canceled.

The rejection of Claims 1-7, 9, and 11-16 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention is respectfully traversed.

Applicants respectfully traverse the assertion that the term “substantially” in Claims 1, 9, and 11 renders the claims indefinite. It is well understood that the fact that claim language includes terms of degree does not automatically render the claim indefinite under Section 112, second paragraph. “The fact that claim language, including terms of degree, may not be precise, does not automatically render the claim indefinite under 35 U.S.C. 112, second paragraph. *Seattle Box Co., v. Industrial Crating & Packing, Inc.*, 731 F.2d 818, 221 USPQ 568 (Fed. Cir. 1984). Acceptability of the claim language depends on whether one of ordinary skill in the art would understand what is claimed, in light of the specification.” (MPEP § 2173.05(b)).

The term "substantially" is often used in conjunction with another term to describe a particular characteristic of the claimed invention. Claims 1, 9, and 11 include the limitation “substantially identical”. Applicants respectfully submit that one of ordinary skill in the art would be apprised of the scope of the claims without further explanation. For example, the Federal Circuit has held that the limitation "which produces substantially equal E and H plane illumination patterns" was definite because one of ordinary skill in the art would know what was meant by "substantially equal." *Andrew Corp. v. Gabriel Electronics*, 847 F.2d 819, 6 USPQ2d 2010 (Fed. Cir. 1988).

Claims 2-7 depend from Claim 1. Claims 12-16 depend from Claim 11. For the reasons set forth above, Applicants respectfully request that the Section 112 rejection of Claims 1-7, 9, and 11-16 be withdrawn.

The rejection of Claims 1, 2, 8-11, and 16 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,241,668 to Carroll is respectfully traversed.

Carroll describes a suspending frame (A) for mounting containers (B) under an elongated wire tray or shelf (T). Shelf (T) includes end trusses (29) connected by longitudinally extending border wires (33). Longitudinal trusses (37) are spaced inward from the sides of shelf (T) and include an upper wire rail (39), a lower wire rail (40) and a zig-zag connecting wire (41). The suspending frame includes side beams (50) that each include upper, intermediate and lower flanges (51), (52) and (53) respectively. A hook member (58) in the form of a stepped metal plate is formed at one end of the upper flange. A retractable plunger (60) is attached at the other end of the upper flange. The hook members and retractable plungers mount the suspending frame to the shelf. Flanges (67) on the containers are slid into channels between the intermediate and lower flanges to place the container into the suspending frame. Notably, the container is supported in the suspension frame rather than on any of the wire members.

Claim 6 was indicated as being allowable if rewritten to overcome the rejection under 35U.S.C. 112, second paragraph, set forth in the present Office Action and to include all of the limitations of the base claim and any intervening claims. Claim 6 has been cancelled and Claim 1 has been amended to include all of the recitations from Claim 6. Further, Claim 1 is submitted to be in compliance with 35 U.S.C. 112, second paragraph, as indicated above. Accordingly, Claim 1 is submitted to be patentable over Carroll.

Claim 2 depends from independent Claim 1. When the recitations of Claim 2 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claim 2 likewise is patentable over Carroll.

Claim 8 recites a refrigerator drawer assembly including “a bottom pan; a pan support comprising a wire member having a first side and a second side, said bottom pan received on said wire member with snap fit engagement; a first bracket coupled to said first side in a first orientation; and a second bracket coupled to said second side in a second orientation inverse to the first orientation”.

Carroll does not describe or suggest a drawer assembly as recited in Claim 8. More specifically, Carroll does not describe or suggest a pan received on a wire member with snap fit engagement. Moreover, Carroll does not describe or suggest brackets coupled to the first and second sides of a wire member wherein the second bracket is inversely oriented to the first bracket. Rather, Carroll describes a suspending frame mounted to a shelf using similarly oriented brackets and a container received in channels on the suspending frame.

Accordingly, for the reasons set forth above, Claim 8 is submitted to be patentable over Carroll.

Claims 9 and 10 depend from independent Claim 8. When the recitations of Claims 9 and 10 are considered in combination with the recitations of Claim 8, Applicants submit that dependent Claims 9 and 10 likewise are patentable over Carroll.

Claim 11 recites a method for assembling a refrigerator drawer assembly including “providing a pan support wire member having a first side and a second side; providing a plurality of substantially identical brackets including a first bracket and a second bracket; removably coupling the first bracket to the first side in a first manner and in a first orientation; and removably coupling the second bracket to the second side in a second manner different from the first manner and in a second orientation inverse to the first orientation”.

Carroll does not describe or suggest a method as recited in Claim 11. More specifically, Carroll does not describe or suggest coupling a first bracket to the first side of a wire member in a first manner and in a first orientation; and coupling a substantially identical second bracket to the second side of the wire member in a second manner different from the first manner and in a

second orientation inverse to the first orientation. Rather, Carroll describes a suspending frame mounted to a shelf using similarly oriented brackets.

Accordingly, for the reasons set fourth above, Claim 11 is submitted to be patentable over Carroll.

Claim 16 depends from independent Claim 11. When the recitations of Claim 16 are considered in combination with the recitations of Claim 11, Applicants submit that dependent Claim 16 likewise is patentable over Carroll.

For at least the reasons set fourth above, Applicants respectfully request that the Section 102(b) rejection of Claims 1, 2, 8-11, and 16 be withdrawn.

The rejection of Claims 8 and 9 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,938,784 to Yang is respectfully traversed.

Yang describes a pull-out basket frame (10) that can be mounted in a cabinet. The basket frame includes left and right side frames (1), front and backside frames (2) and four joints (3). The front and backside frames each include a hook part (21) forming a fitting groove (22). One or more supporting seats (5) are installed on the fitting grooves. The supporting seats include supporting hooks (53) from which a hanging basket (7) may be suspended.

Claim 8 recites a refrigerator drawer assembly including “a bottom pan; a pan support comprising a wire member having a first side and a second side, said bottom pan received on said wire member with snap fit engagement; a first bracket coupled to said first side in a first orientation; and a second bracket coupled to said second side in a second orientation inverse to the first orientation”.

Yang does not describe or suggest a drawer assembly as recited in Claim 8. More specifically, Yang does not describe or suggest a pan received on a wire member with snap fit engagement. Further, Yang does not describe or suggest brackets coupled to the first and second

sides of a wire member wherein the second bracket is inversely oriented to the first bracket. Rather, Yang describes a hanging basket suspended from supporting hooks on a frame.

Accordingly, for the reasons set fourth above, Claim 8 is submitted to be patentable over Yang.

Claim 9 depends from independent Claim 8. When the recitations of Claim 9 are considered in combination with the recitations of Claim 8, Applicants submit that dependent Claim 9 likewise is patentable over Yang.

For at least the reasons set fourth above, Applicants respectfully request that the Section 102(e) rejection of Claims 8 and 9 be withdrawn.

The rejection of Claim 17 under 35 U.S.C. § 103(a) as being unpatentable over German Patent DE 296 14 997 to Kesseboehmer in view of U.S. Patent 4,967,989 to Bender is respectfully traversed.

Claim 18 was indicated as being allowable if rewritten in independent form including the limitations of the base claim and any intervening claims. Claim 18 has been cancelled and Claim 17 has been amended to include all of the recitations from Claim 18. Claim 17 is therefore submitted to be patentable over Kesseboehmer in view of Bender.

For the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claim 17 be withdrawn.

The objection to Claims 3-7 and 12-15 is respectfully traversed. Claims 3-7 and 12-15 are indicated as being allowable if rewritten to overcome the rejections under 35 U.S.C. 112, second paragraph. Claims 3-7 depend from independent Claim 1. Claim 6 has been canceled and Claim 1 has been amended to include all the recitations from Claim 6. Further, Claim 1 is submitted to be in compliance with 35U.S.C. 112, second paragraph, as indicated above. Accordingly, Claims 2-5 and 7 are submitted to be in condition for allowance.

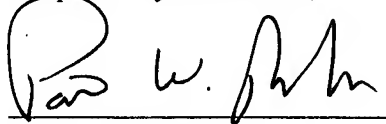
Claims 12-15 depend from independent Claim 11. Claim 11 is submitted to be in compliance with 35U.S.C. 112, second paragraph, as indicated above. Accordingly, Claims 12-15 are submitted to be in condition for allowance.

Therefore, Applicants respectfully request that the objection to Claims 3-7 and 12-15 be withdrawn.

The objection to Claims 18-20 is respectfully traversed. Claims 18-20 depend from independent claim 17. Claim 18 has been canceled and Claim 17 has been amended to include the recitations of Claim 18. Claim 17 is therefore submitted to be patentable over the cited art. Claims 19-20 depend from Claim 17. When the recitations of Claims 19 and 20 are considered in combination with the recitations of Claim 17, Applicant submits that dependent Claims 19 and 20 likewise are patentable over the cited art. Accordingly, Applicants respectfully request that the objection to claims 18-20 be withdrawn.

In view of the foregoing amendment and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Patrick W. Rasche", written over a horizontal line.

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